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Chapter No. 437
18/HR31/R1953SG
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HOUSE BILL NO. 1566

Originated in House  Clerk

HOUSE BILL NO. 1566

AN ACT TO AUTHORIZE SEPARATE INCOME TAX CREDITS FOR VOLUNTARY CASH CONTRIBUTIONS TO QUALIFYING CHARITABLE ORGANIZATIONS AND QUALIFYING FOSTER CARE CHARITABLE ORGANIZATIONS; TO LIMIT THE AMOUNT OF SUCH CREDITS; TO ALLOW EXCESS AMOUNTS OF THE CREDIT TO BE CARRIED FORWARD FOR FIVE CONSECUTIVE YEARS; TO PROVIDE THAT THE CREDITS AUTHORIZED BY THIS ACT ARE IN LIEU OF CHARITABLE DEDUCTIONS TAKEN UNDER TO THE INTERNAL REVENUE CODE AND UTILIZED FOR STATE TAX PURPOSES; TO PROVIDE THE CRITERIA THAT A CHARITABLE ORGANIZATION MUST MEET IN ORDER FOR A CONTRIBUTION TO THE ORGANIZATION TO QUALIFY FOR THE CREDIT; TO AMEND SECTION 27-7-22.32, MISSISSIPPI CODE OF 1972, TO REVISE THE AMOUNT OF THE TAX CREDIT AUTHORIZED FOR EXPENSES INCURRED FOR THE ADOPTION OF A CHILD AND TO REVISE THE NUMBER OF YEARS THAT THE UNUSED PORTION OF THE TAX CREDIT MAY BE CARRIED FORWARD; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) As used in this section:

(a) "Low-income residents" means persons whose household income is less than one hundred fifty percent (150%) of the federal poverty level.

(b) "Qualifying charitable organization" means a charitable organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code or is a designated community action agency that receives community

services block grant program monies pursuant to 42 USC 9901. The organization must spend at least fifty percent (50%) of its budget on services to residents of this state who receive temporary assistance for needy families benefits or low-income residents of this state and their households or to children who have a chronic illness or physical, intellectual, developmental or emotional disability who are residents of this state. A charitable organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code and that meets all other requirements of this paragraph except that it does not spend at least fifty percent (50%) of its overall budget in Mississippi may be a qualifying charitable organization if it spends at least fifty percent (50%) of its Mississippi budget on services to qualified individuals in Mississippi and it certifies to the department that one hundred percent (100%) of the voluntary cash contributions from the taxpayer will be spent on services to Mississippi residents. Taxpayers choosing to make donations through an umbrella charitable organization that collects donations on behalf of member charities shall designate that the donation be directed to a member charitable organization that would qualify under this section on a stand-alone basis. Qualifying charitable organization does not include any entity that provides, pays for or provides coverage of abortions or that financially supports any other entity that provides, pays for or provides coverage of abortions.

(c) "Qualifying foster care charitable organization" means a qualifying charitable organization that each operating year provides services to at least one hundred (100) qualified individuals in this state and spends at least fifty percent (50%) of its budget on services to qualified individuals in this state. A charitable organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code and that meets all other requirements of this paragraph except that it does not spend at least fifty percent (50%) of its overall budget in Mississippi may be a qualifying foster care charitable organization if it spends at least fifty percent (50%) of its Mississippi budget on services to qualified individuals in Mississippi and it certifies to the department that one hundred percent (100%) of the voluntary cash contributions from the taxpayer will be spent on services to Mississippi residents. For the purposes of this paragraph, "qualified individual" means a child in a foster care placement program established by the Department of Child Protection Services, a child placed under the Safe Families for Children model, or a child at significant risk of entering a foster care placement program established by the Department of Child Protection Services.

(d) "Services" means cash assistance, medical care, child care, food, clothing, shelter, job-placement, and job-training services or any other assistance that is reasonably

necessary to meet immediate basic needs and that is provided and used in this state.

(2) Except as provided in subsections (3) and (4) of this section, a credit is allowed against the taxes imposed by this chapter for voluntary cash contributions by the taxpayer during the taxable year to a qualifying charitable organization, other than a qualifying foster care charitable organization, not to exceed:

(a) The lesser of Four Hundred Dollars (\$400.00) or the amount of the contribution in any taxable year for a single individual or a head of household.

(b) The lesser of Eight Hundred Dollars (\$800.00) or the amount of the contribution in any taxable year for a married couple filing a joint return.

(3) A separate credit is allowed against the taxes imposed by this chapter for voluntary cash contributions during the taxable year to a qualifying foster care charitable organization. A contribution to a qualifying foster care charitable organization does not qualify for, and shall not be included in, any credit amount under subsection (2) of this section. If the voluntary cash contribution by the taxpayer is to a qualifying foster care charitable organization, the credit shall not exceed:

(a) The lesser of Five Hundred Dollars (\$500.00) or the amount of the contribution in any taxable year for a single individual or a head of household.

(b) The lesser of One Thousand Dollars (\$1,000.00) or the amount of the contribution in any taxable year for a married couple filing a joint return.

(4) Subsections (2) and (3) of this section provide separate credits against taxes imposed by this chapter depending on the recipients of the contributions. A taxpayer, including a married couple filing a joint return, in the same taxable year, may either or both:

(a) Contribute to a qualifying charitable organization, other than a qualifying foster care charitable organization, and claim a credit under subsection (2) of this section.

(b) Contribute to a qualifying foster care charitable organization and claim a credit under subsection (3) of this section.

(5) A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half (1/2) of the tax credit that would have been allowed for a joint return.

(6) If the allowable tax credit exceeds the taxes otherwise due under this chapter on the claimant's income, or if there are no taxes due under this chapter, the taxpayer may carry forward the amount of the claim not used to offset the taxes under this chapter for not more than five (5) consecutive taxable years' income tax liability.

(7) The credit allowed by this section is in lieu of a deduction pursuant to Section 170 of the Internal Revenue Code and taken for state tax purposes.

(8) Taxpayers taking a credit authorized by this section shall provide the name of the qualifying charitable organization and the amount of the contribution to the department on forms provided by the department.

(9) A qualifying charitable organization shall provide the department with a written certification that it meets all criteria to be considered a qualifying charitable organization. The organization shall also notify the department of any changes that may affect the qualifications under this section.

(10) The charitable organization's written certification must be signed by an officer of the organization under penalty of perjury. The written certification shall include the following:

(a) Verification of the organization's status under Section 501(c)(3) of the Internal Revenue Code or verification that the organization is a designated community action agency that receives community services block grant program monies pursuant to 42 USC 9901.

(b) Financial data indicating the organization's budget for the organization's prior operating year and the amount of that budget spent on services to residents of this state who either:

(i) Receive temporary assistance for needy families benefits;

(ii) Are low-income residents of this state;

(iii) Are children who have a chronic illness or physical, intellectual, developmental or emotional disability; or

(iv) Are children in a foster care placement program established by the Department of Child Protection Services.

(c) A statement that the organization plans to continue spending at least fifty percent (50%) of its budget on services to residents of this state who receive temporary assistance for needy families benefits, who are low-income residents of this state, who are children who have a chronic illness or physical, intellectual, developmental or emotional disability or who are children in a foster care placement program established by the Department of Child Protection Services. A charitable organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code and that meets all other requirements for a qualifying charitable organization or qualifying foster care charitable organization except that it does not spend at least fifty percent (50%) of its overall budget in Mississippi shall submit a statement that it spends at least fifty percent (50%) of its Mississippi budget on services to qualified individuals in Mississippi and that one hundred percent (100%) of the voluntary cash contributions it receives from Mississippi taxpayers will be spent on services to Mississippi residents.

(d) In the case of a foster care charitable organization, a statement that each operating year it provides services to at least one hundred (100) qualified individuals in this state.

(e) A statement that the organization does not provide, pay for or provide coverage of abortions and does not financially support any other entity that provides, pays for or provides coverage of abortions.

(f) Any other information that the department requires to administer this section.

(11) The department shall review each written certification and determine whether the organization meets all the criteria to be considered a qualifying charitable organization and notify the organization of its determination. The department may also periodically request recertification from the organization. The department shall compile and make available to the public a list of the qualifying charitable organizations.

(12) The aggregate amount of tax credits that may be awarded under this section in any calendar year shall not exceed One Million Dollars (\$1,000,000.00).

(13) This section shall be repealed from and after January 1, 2020.

SECTION 2. Section 27-7-22.32, Mississippi Code of 1972, is amended as follows:

[Through December 31, * * * 2019, this section shall read as follows:]

27-7-22.32. (1) (a) There shall be allowed as a credit against the tax imposed by this chapter the amount of the qualified adoption expenses paid or incurred, not to exceed Two Thousand Five Hundred Dollars (\$2,500.00), for each dependent child legally adopted by a taxpayer under the laws of this state during calendar year 2006 or during any calendar year thereafter through calendar year 2017, and not to exceed Five Thousand Dollars (\$5,000.00) for each dependent child legally adopted by a taxpayer under the laws of this state during any calendar year thereafter. A taxpayer claiming a credit under this paragraph (a) may not claim a credit under paragraph (b) of this subsection for the adoption of the same child.

(b) There shall be allowed as a credit against the tax imposed by this chapter the amount of Five Thousand Dollars (\$5,000.00) for each dependent child legally adopted by a taxpayer under the laws of this state through the Mississippi Department of Child Protection Services during calendar year 2018 or during any calendar year thereafter. A taxpayer claiming a credit under this paragraph (b) may not claim a credit under paragraph (a) of this subsection for the adoption of the same child.

(2) The tax credit under this section may be claimed for the taxable year in which the adoption becomes final under the laws of this state. Any tax credit claimed under this section but not

used in any taxable year may be carried forward for the * * * five (5) succeeding tax years. A tax credit is allowed under this section for any child for which an exemption is claimed during the same taxable year under Section 27-7-21(e). For the purposes of this section, the term "qualified adoption expenses" means and has the same definition as that term has in 26 USCS 36C.

[From and after January 1, * * * 2020, this section shall read as follows:]

27-7-22.32. There shall be allowed as a credit against the tax imposed by this chapter the amount of the qualified adoption expenses paid or incurred, not to exceed Two Thousand Five Hundred Dollars (\$2,500.00), for each dependent child legally adopted by a taxpayer under the laws of this state during calendar year 2006 or during any calendar year thereafter. The tax credit under this section may be claimed for the taxable year in which the adoption becomes final under the laws of this state. Any tax credit claimed under this section but not used in any taxable year may be carried forward for the three (3) succeeding tax years. A tax credit is allowed under this section for any child for which an exemption is claimed during the same taxable year under Section 27-7-21(e). For the purposes of this section, the term "qualified adoption expenses" means and has the same definition as that term has in 26 USCS 36C.

SECTION 3. Section 1 of this act shall be codified as a new section in Chapter 7, Title 27, Mississippi Code of 1972.

SECTION 4. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws.

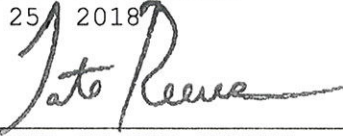
SECTION 5. This act shall take effect and be in force from and after January 1, 2018.

PASSED BY THE HOUSE OF REPRESENTATIVES
March 25, 2018




SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 25, 2018



PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR



GOVERNOR

April 12, 2018
5:10pm